

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Murray	Team: Team # 2	CCRB Case #: 201304015	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/11/2013 5:30 PM, Thursday, 05/16/2013	Location of Incident: § 87(2)(b)	Precinct: 76	18 Mo. SOL 11/11/2014	EO SOL 11/11/2014	
Date/Time CV Reported Mon, 05/13/2013 1:06 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/13/2013 1:06 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Paul McKenna	00000	935284	076 PCT
2. POM Brett Healy	22583	945809	076 PCT
3. POM James Wilson	21477	942713	076 PCT
4. SGT Daniel Casella	01171	944025	PBBS SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Benigno Gonzalez	18645	934944	076 PCT
2. DT3 Colin Wilson	07228	880465	076 DET
3. DT2 Thomas Jurewicz	01282	917798	076 DET
4. DT3 David Arvelo	03052	896970	076 DET

Officer(s)	Allegation	Investigator Recommendation
A.POM Brett Healy	Force: On May 11, 2013, at 5:30 p.m., PO Brett Healy used physical force against § 87(2)(b)	
B.LT Paul McKenna	Abuse: On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) in Brooklyn.	
C.LT Paul McKenna	Abuse: On May 11, 2013, at 5:30 p.m., Lt. McKenna authorized the search of § 87(2)(b) in Brooklyn.	
D.LT Paul McKenna	Abuse: On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna searched § 87(2)(b)	
E.POM James Wilson	Abuse: On May 11, 2013, at 5:30 p.m., PO James Wilson refused to provide his name and shield number to § 87(2)(b)	
F.SGT Daniel Casella	Abuse: On May 11, 2013, at 5:30 p.m., Sgt. Daniel Casella refused to provide his name and shield number to § 87(2)(b)	
G.LT Paul McKenna	Abuse: On May 11, 2013, at 9:20 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) in Brooklyn.	

Officer(s)	Allegation	Investigator Recommendation
H.POM James Wilson	Abuse: On May 11, 2013, at 9:20 p.m., PO James Wilson searched § 87(2)(b) in Brooklyn.	

### Case Summary

On May 13, 2013, § 87(2)(b) and § 87(2)(b) filed this complaint with the CCRB via phone (Enc. H1 – H3). On May 11, 2013, at 5:30 p.m., officers arrived at § 87(2)(b) § 87(2)(b) in Brooklyn, to investigate a stolen police shield. The following allegations resulted:

- **Allegation A: Force – On May 11, 2013, at 5:30 p.m., PO Brett Healy used physical force against § 87(2)(b)**
- **Allegation B: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) § 87(2)(b) in Brooklyn.**
- **Allegation G: Abuse of Authority – On May 11, 2013, at 9:20 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) § 87(2)(b) in Brooklyn.**
- **Allegation H: Abuse of Authority – On May 11, 2013, at 9:20 p.m., PO James Wilson searched § 87(2)(b) § 87(2)(b) in Brooklyn.**  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)
- **Allegation C: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. McKenna authorized the search of § 87(2)(b) § 87(2)(b) in Brooklyn.**
- **Allegation D: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna searched § 87(2)(b)**
- **Allegation E: Abuse of Authority – On May 11, 2013, at 5:30 p.m., PO James Wilson refused to provide his name and shield number to § 87(2)(b)**
- **Allegation F: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Sgt. Daniel Casella refused to provide his name and shield number to § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

This case was ineligible for mediation.

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- § 87(2)(b)

##### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on June 10, 2013 (Enc. I1 – I8).

On May 11, 2013, at approximately 5 p.m., § 87(2)(b) arrived at the apartment rented by his girlfriend, § 87(2)(b) located in the § 87(2)(b), at § 87(2)(b) § 87(2)(b) in Brooklyn. § 87(2)(b) § 87(2)(b)-old son, § 87(2)(b) was helping § 87(2)(b) unpack groceries when they heard a commotion coming from the street in front of the building. From the third story window, § 87(2)(b) observed 10 to 15 officers struggling with three civilians. § 87(2)(b) was attempting to walk past the physical struggle so that she could get into the building. § 87(2)(b) and § 87(2)(b) went downstairs to ensure that § 87(2)(b) safely entered the building. § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) stood on the building's handicap ramp watching the struggle from a couple of feet away. There were two gates and a median of grass between § 87(2)(b) and the officers. § 87(2)(b) never addressed, touched, or approached the officers, and he did not grab a shield off an officer's uniform. As the group headed upstairs, he noticed that the officers were searching through the grass as if they had lost something.

Fifteen minutes after entering § 87(2)(b) officers knocked on § 87(2)(b) door. It sounded as if officers were knocking on every door in the building. § 87(2)(b) opened the door and spoke to an officer who § 87(2)(b) could not see. The officers' vantage point at the front door would have allowed them to see § 87(2)(b) sitting at the computer, a family friend, § 87(2)(b) sitting on the couch next to the TV, and § 87(2)(b) s § 87(2)(b) -old son, § 87(2)(b) on the floor playing. § 87(2)(b) and his girlfriend, § 87(2)(b), were somewhere in the apartment at the time.

§ 87(2)(b) heard the officer ask § 87(2)(b) if he could come in and look around. § 87(2)(b) declined to allow the officer to enter, and did not make any gestures or statements that could be perceived as inviting the officer inside. As § 87(2)(b) was speaking to the officers, PO Brett Healy, identified via investigation and described as a 5'10" – 5'11" tall, heavysset white man dressed in plainclothes, pushed past her and entered the apartment with five other officers. § 87(2)(b) could not see where PO Healy put his hands on § 87(2)(b) but he observed her take two paces backward and make contact with a refrigerator that was positioned behind her.

§ 87(2)(b) and § 87(2)(b) immediately began yelling and questioning the officers' authority to enter the apartment. Lt. Paul McKenna, whom § 87(2)(b) identified by his last name, was described as a 6'1" tall, slim, white man in his 30s wearing plainclothes with a gold shield hanging around his neck. Lt. McKenna approached § 87(2)(b) briefly spoke to him, and searched under the couch cushions that § 87(2)(b) had been sitting on. § 87(2)(b) later informed § 87(2)(b) that Lt. McKenna had searched or frisked him, though § 87(2)(b) did not see this firsthand). PO James Wilson, identified via investigation and described as a 6'5" – 6'6" tall, muscular, uniformed white man in his 20s to 30s, was looking around the desk area, though § 87(2)(b) did not see him touch or move any items on the desk. § 87(2)(b) recalled PO Healy also taking part in the search, though he did not recall his specific actions. The officers never informed § 87(2)(b) what they were looking for.

Det. Colin Wilson and Det. Thomas Jurewicz of the 76<sup>th</sup> Precinct Detective Squad, identified via investigation, were present for this interaction but did not enter the apartment and remained standing at the cusp of the door. Sgt. Daniel Casella, identified via investigation and described by § 87(2)(b) as a 5'6" tall, white man in his 30s dressed in plainclothes, entered the apartment and remained in the kitchen. Sgt. Casella did not assist in the search or speak to the tenants of the apartment.

§ 87(2)(b) asked for every officer's name and shield number, aside from the two detectives who were standing at the cusp of the door. When § 87(2)(b) asked PO Wilson for his shield number, PO Wilson grabbed his uniform where his shield was supposed to be, and yelled that he did not have a shield number. § 87(2)(b) noticed that PO Wilson was in full uniform but missing his shield. PO Wilson never provided his name or shield number to § 87(2)(b). Lt. McKenna and PO Healy provided their names verbally. PO Healy showed his shield to § 87(2)(b) and Lt. McKenna informed § 87(2)(b) that he did not have a shield number. Sgt. Casella did not provide any information for himself, including his shield number or name.

The officers asked § 87(2)(b) to speak to them in the hallway and she complied. The officers did not venture further into the apartment. § 87(2)(b) retrieved his cell phone and entered the hallway to take pictures of the officers. § 87(2)(b) asked PO Wilson and Sgt. Casella for their shield numbers but they still did not provide them. The officers then left.

Once the officers were gone, § 87(2)(b) began complaining of back pain and shortness of breath, as she had a pre-existing injury that was exacerbated from being pushed into the refrigerator. An ambulance arrived and transported § 87(2)(b) to the hospital. § 87(2)(b) also left the location and was

informed later that officers arrived at the apartment that same night and arrested § 87(2)(b) and § 87(2)(b) for the stolen shield.

§ 87(2)(b)'s attorney, § 87(2)(b), made an agreement with the NYPD that § 87(2)(b) would turn himself in for the stolen shield charges on a pre-determined date. Prior to the pre-determined date, on § 87(2)(b), officers arrived at § 87(2)(b) apartment while § 87(2)(b) was present and began knocking on the door, resulting in the peephole being knocked out of the door frame. § 87(2)(b) covered the peephole with aluminum foil until § 87(2)(b) arrived at the apartment and convinced the officers to leave.

**Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) at the time of this incident. § 87(2)(b)

**Personal Photos**

§ 87(2)(b) provided two blurry photos to the CCRB that were taken by § 87(2)(b) during the course of the initial entry on May 11, 2013 (Enc. K6). The first photo depicts two men in business suits standing in the hallway outside of § 87(2)(b)'s apartment with one uniformed male officer. The second photo depicts five men, at least one of whom is wearing a uniform, standing in the hallway of the building. Additionally, § 87(2)(b) provided a cell phone photo that she took of PO Healy's photo plaque which was being displayed at the stationhouse for an "officer of the month" award (Enc. K7). § 87(2)(b) identified him as the officer who pushed her.

**Statements to Medical Personnel**

§ 87(2)(b) arrived at § 87(2)(b) Hospital on § 87(2)(b). She informed medical personnel that the police pushed her against a wall causing her pain to her left shoulder, neck and upper back.

**CCRB Statement**

§ 87(2)(b) provided a phone statement to the CCRB on May 15, 2013 (Enc. J1), and was interviewed at the CCRB on June 10, 2013 (Enc. K1 – K10). Her statements were consistent with each other and with that of § 87(2)(b) unless otherwise noted.

At the time of this incident, § 87(2)(b) and § 87(2)(b) were returning to § 87(2)(b) apartment after running errands. They stopped to observe a fight involving civilians and police officers in front of § 87(2)(b) but did not participate in the fight. § 87(2)(b) and § 87(2)(b) also came downstairs to watch the fight, but did not participate. § 87(2)(b) did not observe any civilian, including § 87(2)(b) remove a shield from an officer's uniform.

Officers knocked on § 87(2)(b) door, and when she opened it she observed officers entering her neighbor's apartment. She spoke to Lt. McKenna, who asked to come in and look around. § 87(2)(b) declined to allow the officers to enter. PO Healy pushed past Lt. McKenna and shoved § 87(2)(b) against a nearby refrigerator with both of his hands on her chest. § 87(2)(b) remained standing, but jolted backward and hit her head and back on a nearby refrigerator. As all of the officers entered, § 87(2)(b) and § 87(2)(b) began screaming and protesting the officers' entry. § 87(2)(b) observed Lt. McKenna searching § 87(2)(b)'s front and back pockets. He removed money, keys, and his wallet in the process. She did not see whether officers frisked § 87(2)(b) prior to searching him, and she could not hear their conversation, as she was preoccupied with ensuring the safety of § 87(2)(b) and Amari. She did not observe Lt. McKenna search under the couch cushions.

Lt. McKenna provided his name to § 87(2)(b) and § 87(2)(b) asked PO Wilson for his shield number, but PO Wilson shouted in § 87(2)(b)'s face, "I don't have a badge!" Det. Colin

Wilson, who was identified via investigation and described as a 5'8" tall, light-skinned black man with grey hair who was wearing a business suit, asked to speak to § 87(2)(b) in the hallway.

§ 87(2)(b) continually entered the hallway to get the officers' names and shield numbers. § 87(2)(b) was uncertain which officers refused to provide their information to § 87(2)(b). When § 87(2)(b) began taking photos of the officers, they left the location quickly.

§ 87(2)(b) went to § 87(2)(b) after the officers left so she could be treated for chest, neck and back pain. She remained at the hospital for a couple of hours and returned at approximately 9:30 p.m. As the taxi pulled up to § 87(2)(b) apartment building, she received a call from § 87(2)(b) who informed her that officers were in the apartment arresting § 87(2)(b). As § 87(2)(b) approached § 87(2)(b) PO Healy came out of the building and began to handcuff § 87(2)(b). During her phone statement, § 87(2)(b) alleged that PO Healy twisted her arm and stated, "I don't give a fuck" in regards to her pain. However, § 87(2)(b) did not make this allegation at the time of her CCRB interview. § 87(2)(b) was uncertain whether the officers had been in her house during their second visit, or whether they conducted an additional search.

At the precinct, § 87(2)(b) was informed that she and § 87(2)(b) were arrested for possessing the stolen shield and marijuana. After this incident, § 87(2)(b) informed § 87(2)(b) that officers had entered bedrooms inside of § 87(2)(b) apartment and claimed they found the shield.

**Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. § 87(2)(b)
- § 87(2)(b)

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on July 1, 2013 (Enc. M1 – M9). His statement was generally consistent with that of § 87(2)(b) with any discrepancies noted below.

At the time of this incident, § 87(2)(b) was refusing to allow officers to enter her apartment, when an officer who § 87(2)(b) could not see, but who was identified via investigation as PO Healy, put his hands on § 87(2)(b) torso and pushed her backward, causing her to take several steps backward. Several officers rushed past her, but Det. Wilson and Det. Jurewicz remained at the cusp of the doorway.

Lt. McKenna, who § 87(2)(b) described as a 5'11" tall, white man in plainclothes with brown hair in his 40s, approached § 87(2)(b) who was sitting on the couch with his hands in his lap. Lt. McKenna stood over § 87(2)(b) and repeatedly demanded that § 87(2)(b) give him the shield. § 87(2)(b) denied knowing what he was talking about. Lt. McKenna requested § 87(2)(b)'s identification and § 87(2)(b) flashed him his identification card, but did not remove it from the wallet. Lt. McKenna directed § 87(2)(b) to stand up and he complied. Lt. McKenna first entered § 87(2)(b)'s left front pants pocket, then the rear left pocket, followed by the rear right pocket, and lastly the front right pocket. Lt. McKenna did not frisk § 87(2)(b) before searching his pockets, but he did so after the search. § 87(2)(b) was wearing tight, straight-legged, black denim jeans, and carried his wallet in the left front pocket. § 87(2)(b) did not see the officers search the apartment, or move further into the apartment than the doorway leading out of the living room to the rest of the apartment.

§ 87(2)(b) was yelling at the officers to get out of his house and asking for the officers' shield numbers, directing his question to all of the officers, but speaking to no officer specifically. At least one officer, who § 87(2)(b) did not recall, denied having a shield. PO Wilson, whom § 87(2)(b) described as a 6'2" – 6'3" tall, uniformed white (Polish) man with brown hair, was standing near § 87(2)(b) at which point § 87(2)(b) noticed that he did not have a shield on his uniform. § 87(2)(b) began speaking to PO Wilson in Polish.

As the officers left, § 87(2)(b) went into the hallway and took photos of the officers. § 87(2)(b) was not present at the apartment when the officers returned later that night.

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- § 87(2)(b) is § 87(2)(b).

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on June 24, 2013 (Enc. L1 – L6). His statement was consistent with that of § 87(2)(b) with any exceptions noted below.

When officers knocked on § 87(2)(b) apartment door, Lt. McKenna requested permission to enter, but she refused. PO Healy, a 6'1" tall, heavy-set white man in his 20s who was wearing plainclothes, placed both hands on § 87(2)(b) chest and pushed her backward, causing her to jolt backward into the refrigerator. Approximately five officers entered the living room afterward. § 87(2)(b) and § 87(2)(b) began vehemently protesting the officers' entry.

§ 87(2)(b) observed Lt. McKenna, a 6'2" tall, muscular white man with brown hair in his 30s, searching § 87(2)(b)'s pockets. He did not see an officer flip the couch cushions over or search any other area of the apartment.

PO Wilson, a 6'2" tall, white (Polish) man in his mid-30s who spoke Polish inside of the apartment was dressed in uniform but was not wearing a shield. There was one detective present in the apartment. § 87(2)(b) was asking each individual officer for their name and/or shield number, but § 87(2)(b) could not keep track of who provided their information and who did not.

After the officers left, § 87(2)(b) left the location in an ambulance. A couple hours later, § 87(2)(b) heard a knock on the door and looked through the peephole to observe two older men dressed in suits. He did not recognize them as being present during the initial encounter, and believing that the men were there to address the prior situation, § 87(2)(b) opened the door to speak to them. Immediately upon opening the door, officers pushed their way past § 87(2)(b) into the apartment without making any statements. § 87(2)(b) did not give the officers permission to enter.

Det. Jurewicz, a 5'9" white man in a business suit, and Det. Colin, a 5'9" tall black man in a business suit entered first. Lt. McKenna, PO Healy and PO Wilson were hiding around the corner and ran into the apartment once the detectives entered. Additional officers were present, though § 87(2)(b) was unable to describe them.

The officers were asking to speak to the "two tall black guys" which § 87(2)(b) believed to be § 87(2)(b) and § 87(2)(b). § 87(2)(b) was handcuffed and placed on the couch while officers walked through the house. Due to his inability to move, § 87(2)(b) was unable to observe where the officers searched. He observed Lt. McKenna enter § 87(2)(b) bedroom and return minutes later, claiming that he had found the stolen shield. The officers did not interact with § 87(2)(b) who were in the back room with the door closed.

§ 87(2)(b) was escorted to a police vehicle as § 87(2)(b) was returning to the apartment. PO Healy placed § 87(2)(b) in handcuffs and escorted her to a police vehicle. They were both arrested for possession of marijuana and possession of stolen property, but § 87(2)(b) was released from the precinct prior to arraignment.

**NYPD Statements:**

**Subject Officer: LT. PAUL MCKENNA**

- Lt. McKenna was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- On May 11, 2013, Lt. McKenna worked from 2:30 p.m. to 11:15 p.m. as a 76<sup>th</sup> Precinct Special Operations Lieutenant. Lt. McKenna was in plainclothes and assigned to unmarked RMP 0576 with PO Brett Healy.

### **Memo Book**

At 4:30 p.m., a call for assistance was transmitted from § 87(2)(b). At 4:43 p.m., three individuals were arrested by 76<sup>th</sup> Precinct Patrol Sector A for assault against an officer, disorderly conduct and resisting arrest. At 4:50 p.m., a vertical patrol of § 87(2)(b) was conducted, and at 5:10 p.m., Lt. McKenna resumed patrol. At 10 p.m., a complaint was generated for § 87(2)(b) § 87(2)(b). At 10:30 p.m., two people were arrested (Enc. Q1 – Q5).

### **CCRB Statement**

Lt. McKenna was interviewed at the CCRB on October 29, 2013 (Enc. R1 – R6).

On May 11, 2013, at approximately 4:30 p.m., a patrol sector requested assistance regarding a group fight, causing Lt. McKenna and PO Healy to arrive at § 87(2)(b) in Brooklyn, and conduct crowd control. Once the group fight had ceased, PO James Wilson informed Lt. McKenna that a tall black man had grabbed him and ripped his shield off his uniform. PO Wilson was not injured.

An anonymous person who Lt. McKenna was unable to provide information for, informed an officer, who Lt. McKenna was unable to recall, that the tall black man who ripped the shield off PO Wilson's uniform resided in § 87(2)(b) § 87(2)(b). Lt. McKenna did not hear this conversation.

The officers searched the vicinity of the group fight and were unable to find the shield. Lt. McKenna, PO Healy, PO Wilson, and other officers who he could not recall began a vertical patrol of § 87(2)(b). They knocked on a few doors, though Lt. McKenna did not recall receiving additional information or entering any apartments aside from § 87(2)(b).

When officers knocked on § 87(2)(b) a female tenant, identified as § 87(2)(b) opened the door. Lt. McKenna could not recall the context of the conversation, but remembered that § 87(2)(b) provided the officers with consent to enter the apartment. He did not recall whether the consent was verbal or implied. Lt. McKenna did not recall an argument or physical struggle occurring at the cusp of the doorway, and did not see PO Healy push § 87(2)(b).

All of the officers entered the apartment and remained in the common area. They did not search under couch cushions or any other area of the apartment. Lt. McKenna was unable to recall how many civilians were inside the apartment, and upon viewing a photo of § 87(2)(b) he did not recognize him as being present during the incident. Lt. McKenna did not recall searching an individual's pockets, or seeing any other officer do so.

Everyone in the apartment was compliant, and Lt. McKenna does not recall any tenant requesting an officer's name or shield number. He did not hear PO Wilson or any other officer refuse to provide their information. The officers were only inside the apartment for approximately three minutes. § 87(2)(b) did not complain of any injuries and Lt. McKenna did not see an ambulance arrive at the location.

The officers returned to the stationhouse, where they conducted a computer investigation into the tenants of § 87(2)(b). An Automated Database Warrant (ADW) inquiry yielded a photo of § 87(2)(b) which PO Wilson viewed and confirmed was the tall black man who removed his shield.

At approximately 10 p.m., Lt. McKenna, PO Healy, PO Wilson, and additional officers who Lt. McKenna does not recall, returned to § 87(2)(b). At this time, no warrant existed for the location or for § 87(2)(b) but upon knocking on § 87(2)(b) a tenant gave the officers permission to enter. Lt. McKenna did not recall which tenant they spoke to and whether it was a man or a woman. Lt. McKenna said that he was present for the conversation in which the tenant provided consent, but was unable to recall the details of the conversation, or which officer was speaking to the tenant.

The officers entered the apartment a second time, and Lt. McKenna did not recall a physical struggle taking place during the entry. He did not recall how many tenants were inside of the apartment, but remembered that § 87(2)(b) was not present. Lt. McKenna did not recall whether the tenants were compliant or agitated during the second entry.

Marijuana and the stolen shield were recovered from the apartment, as they were in plain view of where the officers were lawfully standing. The apartment was not searched, and Lt. McKenna was



uncertain which officer recovered the marijuana and where it was recovered from. PO Wilson recovered the stolen shield, though Lt. McKenna did not recall seeing this happen. Lt. McKenna then clarified that PO Wilson informed him that the shield was recovered from a shelf that was in plain view, and the marijuana was also in plain view. As a result, § 87(2)(b) was placed under arrest. As the officers were leaving the location, § 87(2)(b) was returning to the building. She was also placed under arrest for the stolen shield and possession of marijuana.

**Subject Officer: PO BRETT HEALY**

- PO Healy was § 87(2)(b) old at the time of this incident. § 87(2)(b).
- On May 11, 2013, PO Healy worked from 2 p.m. to 11:35 p.m. as a 76<sup>th</sup> Precinct Anti-Crime officer. He was working in plainclothes and was assigned to unmarked vehicle #576 with PO Benigno Gonzalez and Lt. Paul McKenna.

**Memo Book**

On May 11, 2013, at 4:35 p.m., a call for assistance was transmitted from Columbia Street and Lorraine Street. At 4:40 p.m., PO Healy arrived at the location. At 5:15 p.m., officers conducted a vertical patrol of § 87(2)(b) in regards to a stolen police shield. A canvass was conducted in § 87(2)(b) in regards to the above information. At 5:40 p.m., PO Healy resumed patrol. At 9 p.m., a complaint was generated for § 87(2)(b) § 87(2)(b). At 9:12 p.m., two individuals were placed under arrest by the 76<sup>th</sup> Precinct Anti-Crime team (Enc. S1 – S3).

**CCRB Statement**

PO Healy was interviewed at the CCRB on October 29, 2013 (Enc. T1 – T6). His statement was generally consistent with that of Lt. McKenna unless otherwise noted below.

At the time of this incident, PO Healy, Lt. McKenna, PO Wilson, Det. Jurewicz, Det. Wilson, and possibly additional officers who PO Healy could not recall, were conducting a vertical patrol of § 87(2)(b) to investigate PO Wilson's stolen shield.

The officers knocked on every apartment door, and noted that "everybody basically just invited us in so the officer could look at the individuals in the apartment and determine whether they were the one that took his shield." The officers knocked on § 87(2)(b) and § 87(2)(b) answered the door. Lt. McKenna informed her that they were looking for an officer's shield that had been stolen. § 87(2)(b) denied that anyone inside of her apartment stole the shield, and subsequently invited them in. She was not argumentative and a physical struggle did not take place. PO Healy did not push § 87(2)(b) to gain entry into the apartment.

The officers entered the apartment. The four or five tenants in the apartment were acting "fairly agitated," causing the officers to remain in the apartment for only a couple of minutes. PO Healy did not recall specific statements the tenants were making, but noted at least one of the tenants asked for PO Healy's and Lt. McKenna's name and shield number. They both provided their information verbally. PO Healy did not hear § 87(2)(b) ask for PO Wilson's name or shield number, and he did not hear PO Wilson, or any other officer, refuse to provide their information.

Upon viewing a photograph of § 87(2)(b) during his CCRB interview, PO Healy was unable to recall observing him at the location. He did not see Lt. McKenna search § 87(2)(b) or lift the couch cushions on which § 87(2)(b) had been sitting. The officers remained in the front room and did not search the apartment. PO Wilson was unable to definitively identify the tenant who stole his shield, so the officers left the location. PO Healy did not hear § 87(2)(b) complain of any injuries, nor did he see an ambulance at the location for § 87(2)(b).

After conducting an investigation at the stationhouse, PO Wilson identified § 87(2)(b) as the individual who stole his shield. At 9 p.m., PO Healy, Lt. McKenna, PO Wilson, PO Gonzalez, and

uniformed male officers who PO Healy does not recall (who may have been assigned to Housing), went back to § 87(2)(b) apartment. A male tenant, identified as § 87(2)(b) opened the door for the officers. PO Healy did not hear the conversation, as he was standing further away from the door, but believed that § 87(2)(b) provided verbal consent for the officers to enter. He did not recall which officer § 87(2)(b) was speaking to.

Approximately six to seven officers entered the apartment. PO Healy did not witness the recovery of the marijuana or shield, but was informed that PO Wilson recovered the shield. PO Healy did not conduct a search and did not see any other officer do so. The tenants were calm and did not protest the officers' entry or ask them to leave.

The officers escorted § 87(2)(b) to a police vehicle, and in the process, observed § 87(2)(b) returning to the building. § 87(2)(b) was also arrested for possession of marijuana and possession of the stolen shield.

**Subject Officer: PO JAMES WILSON**

- *PO Wilson was § 87(2)(b) old at the time of this incident. § 87(2)(b) PO Wilson has a strong Russian accent.*
- *On May 11, 2013, PO Wilson worked from 3 p.m. to 11:35 p.m. as a 76<sup>th</sup> Precinct Patrol Officer for Sectors C and D with PO Alexi Serpani. Both officers were in uniform and assigned to marked RMP #4528.*

**Memo Book**

On May 11, 2013, at 4:38 p.m., PO Wilson was requested to provide back-up assistance to Patrol Sector 76A at Lorraine Street and Columbia Street. At 4:40 p.m., PO Wilson arrived at the location and observed three perpetrators with PO Jesse Zhong and PO Alberto Iturralde. Two black females and one black male assaulted PO Zhong. PO Wilson held down the perpetrators. A black male took PO Wilson's shield, #21477, off of his shirt. He canvassed the area with negative results. A vertical patrol was conducted in § 87(2)(b) for the perpetrator and all of the apartments were checked. At 5:30 p.m., PO Wilson returned to the 76<sup>th</sup> Precinct stationhouse. At 8:50 p.m., PO Wilson, Anti-Crime officers, and Conditions officers returned to § 87(2)(b) to canvass for the stolen shield. At 8:55 p.m. the officers arrived at § 87(2)(b) § 87(2)(b) and the residents provided consent to enter the apartment. The residents provided consent to search for my shield. The shield was recovered from the back room, under a jeans buckle. Marijuana was also recovered from the back room. Sgt. Casella and Lt. McKenna were present and § 87(2)(b) and § 87(2)(b) were arrested for criminal possession of stolen property (Enc. U1 – U6).

**Complaint Report**

PO Wilson prepared a complaint report in regard to this incident (Enc. V1 – V4). He noted that while he was engaged in a physical struggle with an uninvolved person, a male approached and took his shield from his uniform. He then fled toward § 87(2)(b) PO Wilson did not sustain injuries. The report noted that § 87(2)(b) was wanted for grand larceny in connection to the incident.

**CCRB Statement**

PO Wilson was interviewed at the CCRB on November 15, 2013 (Enc. W1 – W6). His statement was consistent with that of PO Healy, unless otherwise noted.

At the time of this incident, PO Wilson was engaging in a physical struggle with uninvolved civilians when a 6'4" tall, skinny black man with dreadlocks, who he later identified as § 87(2)(b) grabbed him and pushed him. PO Wilson pushed § 87(2)(b) back, at which point § 87(2)(b) yelled, "You stupid cop, you lost it, I got it from you." PO Wilson did not immediately realize he was missing his

shield, but once the commotion with the uninvolved civilians concluded, he noticed it was not pinned to his uniform and deduced that § 87(2)(b) likely removed it.

PO Wilson briefly canvassed the surrounding area, and upon seeing § 87(2)(b) standing nearby, he recognized him as the person who may have stolen his shield, and yelled, “Stop!” § 87(2)(b) did not look at PO Wilson, and instead ran at a very fast pace into § 87(2)(b) PO Wilson was uncertain which apartment he entered.

The officers conducted a vertical patrol to ask tenants of the building whether they had seen anything in an effort to determine which apartment § 87(2)(b) entered. PO Wilson, Lt. McKenna, Sgt. Daniel Casella, PO Healy, two or three detectives from the 76<sup>th</sup> Precinct Detective Squad, and possibly more officers who PO Wilson did not recall, entered the building. PO Serpani did not participate in the vertical patrol. Officers knocked on at least ten apartment doors in the building and some people answered but were unable to provide the officers with information.

Upon knocking on § 87(2)(b) § 87(2)(b) answered the door and Lt. McKenna explained the situation to her. § 87(2)(b) confirmed that she had seen the fight but did not steal the officer’s shield. Lt. McKenna requested that she allow the officers to enter the apartment. § 87(2)(b) reiterated that she knew nothing about the situation and opened the door wider while verbally providing consent for the officers to enter. PO Healy did not push § 87(2)(b) to gain entry into the apartment.

Three men were inside the apartment and only § 87(2)(b) began acting agitated. He was yelling at PO Wilson that he knew the officers were looking for him, but that they were not going to find anything. PO Wilson provided his name and stated that someone took his shield. He provided the number to his shield, 21477. PO Wilson informed § 87(2)(b) that he knew § 87(2)(b) was the individual who took his shield. The two other men in the apartment, identified as § 87(2)(b) and § 87(2)(b) were quiet and calm.

PO Wilson recognized the photo of § 87(2)(b) presented to him during his CCRB interview, but did not recall anything notable about his demeanor. PO Wilson denied speaking to § 87(2)(b) in Polish. PO Wilson speaks Ukrainian Russian. He did not see any officer search § 87(2)(b) or the couch on which § 87(2)(b) was sitting. The officers stayed in the front room and did not conduct a search of the apartment.

§ 87(2)(b) was yelling at the officers to leave the location, and the officers left within two minutes of arriving. § 87(2)(b) requested the officers’ names and shield numbers, but did not direct his request to any officer in particular, as he yelled it to everyone. PO Wilson provided his name and shield number a second time. PO Wilson did not hear PO Healy or Lt. McKenna refuse their information, and was uncertain how they provided it to § 87(2)(b) PO Wilson did not state, “I don’t have a badge!” in response to § 87(2)(b)’s question. At one point, PO Wilson did state, “I don’t have it now because you took it,” but he also provided his information two times verbally during the interaction prior to making this statement. PO Wilson did not observe any injuries on § 87(2)(b) nor did he see an ambulance at the location.

While at the 76<sup>th</sup> Precinct stationhouse, PO Wilson obtained a photo of § 87(2)(b) from a computer database, which he speculated was taken months, possibly years, prior to the date of the incident. Upon viewing the photo, PO Wilson confirmed that he was the individual who stole his shield. At 8:50 p.m. Lt. McKenna, Sgt. Casella, Det. Wilson, Det. Jurewicz, Brooklyn South Task Force supervisors and Housing officers who PO Wilson does not know by name, and the 76<sup>th</sup> Precinct Anti-Crime Team, including PO Gonzalez, arrived at the location. Approximately 20 officers arrived at the location.

Detectives and supervisors were crowded around § 87(2)(b) knocking on the door, so PO Wilson was approximately 20 feet from the apartment door when it was opened by a tenant. PO Wilson initially stated an unknown male tenant opened the door, and then stated that § 87(2)(b) opened the door. PO Wilson heard part of the conversation, consisting of an unknown male officer, possibly Det. Wilson, asking to enter the apartment. He heard the officer inform the tenant that they were looking for § 87(2)(b) and a shield. PO Wilson heard the male or female tenant who opened the door respond that the

officers could enter but § 87(2)(b) was not present, and the officers would not find anything. An officer who PO Wilson does not recall asked whether they could look around for the shield, and the occupant of the apartment consented to the search.

Approximately 20 officers entered the apartment. § 87(2)(b) Thomas, and Amari were present in the apartment, but § 87(2)(b) and § 87(2)(b) were not. None of the civilians protested the officers' entry or asked them to leave.

PO Wilson, Sgt. Casella, and two officers from the task force that PO Wilson did not recall by name, entered one of the back bedrooms. PO Wilson observed his shield on a shelf in a 4-foot-wide walk-in closet. The shelf was 5" tall. PO Wilson is 6'3" tall. PO Wilson informed Sgt. Casella of his observations prior to touching anything. PO Wilson observed marijuana on the floor, in a loose leaf form, and also observed a rolled marijuana cigarette on the floor. PO Wilson entered a living room and one bedroom. He observed other officers walking around, but does not know where they went or what actions they took.

#### **Witness Officer: PO BENIGNO GONZALEZ**

- PO Gonzalez was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- On May 11, 2013, PO Gonzalez worked from 2 p.m. to 10:35 p.m. as a 76<sup>th</sup> Precinct Anti-Crime Officer. He was working with PO Brett Healy, in plainclothes, and assigned to RMP 576.

#### **Memo Book**

At 9:15 p.m., PO Gonzalez went to § 87(2)(b) § 87(2)(b) At 9:21 p.m., § 87(2)(b) and § 87(2)(b) were placed under arrest from criminal possession of stolen property regarding a NYPD shield (Enc. N1 – N9).

#### **Arrest Reports**

PO Gonzalez prepared the arrest reports for § 87(2)(b) and § 87(2)(b) both of whom were arrested for criminal possession of stolen property and unlawful possession of marijuana (Enc. O1 – O6). PO Gonzalez noted that marijuana and a stolen police shield, #21477, were recovered from inside of § 87(2)(b) § 87(2)(b) § 87(2)(b) was arrested inside of the apartment and § 87(2)(b) was arrested outside of the apartment. No force was used during the course of either arrest.

#### **CCRB Statement**

PO Gonzalez was interviewed at the CCRB on November 15, 2013 (Enc. P1 – P6). His statement was generally consistent with PO Wilson's unless otherwise noted.

PO Gonzalez was not present for the initial entry into § 87(2)(b) At 8 p.m., PO Gonzalez and officers who he could not recall were at the stationhouse conducting an investigation into PO Wilson's stolen shield. PO Wilson was able to identify § 87(2)(b) as the individual who removed his shield from his uniform. Approximately ten officers, including PO Gonzalez, PO Healy, Lt. McKenna, PO Wilson, Det. Wilson, Det. Jurewicz, and possibly other officers who PO Gonzalez was unable to recall, responded to § 87(2)(b) PO Gonzalez recalled that Brooklyn Task Force and Housing officers were in the area, but was uncertain whether they arrived at the apartment.

§ 87(2)(b) answered the door and spoke to either Det. Wilson or Det. Jurewicz. PO Gonzalez was standing approximately ten feet from the door and was unable to hear the conversation but noted that § 87(2)(b) seemed cooperative. The officers asked whether they could come in and look for § 87(2)(b) and though PO Gonzalez does not recall § 87(2)(b)'s response, he believed he gave consent as the door was opened and officers walked in.

While in the apartment, § 87(2)(b) never became combative or asked the officers to leave. § 87(2)(b) and § 87(2)(b) were the only two tenants in the apartment. Upon viewing the arrest reports during his CCRB interview, he noted that § 87(2)(b) was arrested in front of the location while § 87(2)(b) was arrested outside of the location. PO Gonzalez was uncertain whether § 87(2)(b) was inside of the apartment or on her way up to the apartment at the time of her arrest.

PO Gonzalez entered a bedroom and looked around for § 87(2)(b). He observed marijuana on the floor in loose-leaf form. PO Gonzalez did not open drawers in the bedroom or look in containers, and he did not see other officers search anywhere in the apartment. PO Gonzalez did not see the shield or see PO Wilson recover the shield, but he was later informed that the shield was recovered. He believed that Lt. McKenna, PO Healy, PO Wilson and possibly detectives were present for the recovery of the shield. PO Gonzalez did not recall hearing a conversation between § 87(2)(b) and officers about seeking permission to look around.

**Subject Officer: SGT. DANIEL CASELLA**

- Sgt. Casella was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- On May 11, 2013, Sgt. Casella worked from 2 p.m. to 10:57 a.m. as a Lucky Bag Operation Supervisor. He was working with PO Brett Healy and PO Benigno Gonzalez. They were working in plainclothes and assigned to an unmarked vehicle.

**Memo Book**

On May 11, 2013, at 4:35 p.m., Sgt. Casella responded to an officer's request for assistance at Columbia Street and Lorraine Street, in Brooklyn. He arrived at 4:40 p.m. At 5:15 p.m., Sgt. Casella conducted a vertical patrol of § 87(2)(b) in regards to a stolen officer's shield. At 5:40 p.m., Sgt. Casella resumed patrol to the 76<sup>th</sup> Precinct stationhouse. At 5:50 p.m. he arrived at the stationhouse and went out of service. At 9 p.m., Sgt. Casella was working a precinct assignment at § 87(2)(b) § 87(2)(b). At 9:12 p.m., PO Gonzalez placed two individuals under arrest (Enc. X1 – X2).

**CCRB Statement**

Sgt. Casella was interviewed at the CCRB on February 20, 2014 (Enc. Y1 – Y4).

When Sgt. Casella responded to the officer's request for assistance near the intersection of Columbia Street and Lorraine Street, numerous officers were already present. He overheard PO Wilson state that a black man had ripped his shield off of his uniform. The officers split up and began conducting vertical patrols of the surrounding buildings. Upon arriving on the third floor of § 87(2)(b) he observed Lt. McKenna, PO Wilson, PO Healy, and members of the 76<sup>th</sup> Precinct Detective Squad who he does not know by name, leaving the third floor.

As the officers were leaving, two occupants of the apartment, identified via investigation as § 87(2)(b) and § 87(2)(b) were yelling at the officers, though Sgt. Casella does not recall the context of what they were saying. He did not hear § 87(2)(b) ask for any officers' name or shield number, and neither Sgt. Casella nor any officer refused to provide their information. The occupants of the apartment then closed the door and the officers left. Sgt. Casella did not actually see officers enter the apartment, but he observed them walking away as if they had been inside. § 87(2)(b) and § 87(2)(b) did not speak to Sgt. Casella and he did not speak to them.

The officers went to the 76<sup>th</sup> Precinct stationhouse and PO Wilson identified § 87(2)(b) as the person who ripped his shield from his uniform, though Sgt. Casella was unaware of how he came to this conclusion. At approximately 8:30 p.m. to 9 p.m., Lt. McKenna, PO Healy, PO Gonzalez and unknown members of the 76<sup>th</sup> Precinct Detective Squad and Brooklyn Task Force returned to § 87(2)(b). Altogether, Sgt. Casella estimated that at least ten officers were present on the third floor of § 87(2)(b). The detectives knocked on § 87(2)(b) while Sgt. Casella and the rest of the officers stood back

toward the stairway. Sgt. Casella did not see who opened the door, nor could hear the conversation that ensued. He was uncertain what circumstances preceded the entry.

Approximately five officers, including the detectives and PO Wilson, entered the apartment while Sgt. Casella remained in the hallway of the § 87(2)(b). He did not see what occurred inside of the apartment, but was later informed that PO Wilson recovered his shield and marijuana from a bedroom. One occupant of the apartment, identified via investigation as § 87(2)(b) was arrested. Upon exiting the building, § 87(2)(b) was observed outside and she too was arrested. Sgt. Casella never observed an ambulance at the location and was unable to recall anything notable about § 87(2)(b) demeanor.

Sgt. Casella did not enter § 87(2)(b) § 87(2)(b) on either visit he made to § 87(2)(b) on May 11, 2013.

**Witness Officer: DET. COLIN WILSON**

- *Det. Wilson was § 87(2)(b) old at the time of this incident. § 87(2)(b)*
- *On May 11, 2013, Det. Wilson worked from 3:45 p.m. to 1 a.m. on the 76<sup>th</sup> Precinct Detective Squad with Det. Thomas Jurewicz.*

**Memo Book**

Det. Wilson's memo book places him at § 87(2)(b) at 5:30 p.m. and 8:30 p.m. in regards to the stolen police shield (Enc. Z1 – Z4).

**Arrest Report**

Det. Wilson prepared the arrest report for § 87(2)(b) who was arrested on § 87(2)(b) at the 76<sup>th</sup> Precinct stationhouse when he turned himself in regarding the incident that occurred on May 11, 2013. Det. Wilson noted that PO Wilson identified § 87(2)(b) from a lineup as the person who removed his shield from his uniform on May 11, 2013 (Enc. AA1 – AA4).

**Medical Records**

§ 87(2)(b) arrived at § 87(2)(b) Hospital on § 87(2)(b) m. She complained of neck, left shoulder, and upper back pain. Medical personnel noted tenderness to her shoulder, but no redness. It was noted that § 87(2)(b) has a plate in her neck due to a cervical surgery prior to this incident. § 87(2)(b) was diagnosed with a neck, cervical (base of the cranial bone to the bottom of the neck), and shoulder strain.

**NYPD Documents**

**SPRINT Report**

SPRINT Report § 87(2)(b) was generated as result of this incident (Enc. CC1 – CC2). On May 11, 2013, at 8:50 p.m., Lt. McKenna arrived at § 87(2)(b) § 87(2)(b) in Brooklyn, with members of the 76<sup>th</sup> Precinct Anti-Crime Team (PO Gonzalez and PO Healy). At 9:12 p.m., PO Gonzalez put one individual under arrest, and at 9:49 p.m. he put a second individual under arrest.

**Command Log**

At 9:21 p.m., both § 87(2)(b) and § 87(2)(b) were entered into the 76<sup>th</sup> Command Log (Enc. DD1 – DD5). Both of their conditions were categorized as normal.

**Property Vouchers**

Among some personal belongings, a photo of shield #21477 was vouchered under property invoices #§ 87(2)(b) and #§ 87(2)(b) as arrest evidence (Enc. EE1 – EE8). The police shield, which was recovered from § 87(2)(b) was reported to have been found by PO Gonzalez, and § 87(2)(b) and § 87(2)(b) were listed as the owners of the shield on separate property vouchers. § 87(2)(b)

property voucher was later voided. One twist of marijuana was vouchered under property invoice #§ 87(2)(b) as arrest evidence and as having belonged to § 87(2)(b)

### **Stop, Question and Frisk Index**

The 76<sup>th</sup> Precinct stop, question and frisk index was obtained and analyzed, concluding that no reports were prepared for § 87(2)(b) in relation to this incident (Enc. FF1 – FF3).

### **Roll Call**

The tour three 76<sup>th</sup> Precinct roll call from May 11, 2013, lists Lt. McKenna as the Special Operations Lieutenant, Sgt. Casella as the Training Sergeant, PO Wilson as being assigned to Patrol Sector C, and PO Gonzalez and PO Healy as working on an Anti-Crime Team (Enc. GG1 – GG8).

§ 87(2)(b), § 87(2)(a) 160.50

### **Status of Civil Proceedings**

- On October 28, 2013, and February 24, 2014, requests were made to the New York City Comptroller's Office to verify whether a notice of claim was filed by the complainants in this case. As of the writing of this report, the inquiries have remained unanswered.

### **Civilians Criminal History**

- As of February 23, 2014, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) or § 87(2)(b) (Enc. KK1 – KK2).

- § 87(2)(b)

### **Civilians CCRB History**

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (Enc. G1 – G6).

### **Subject Officers CCRB History**

- Lt. McKenna has been a member of the service for ten years and there are no substantiated CCRB allegations against him (Enc. F5).
- PO Healy has been a member of the service for six years and there are no substantiated CCRB allegations against him (Enc. F1).
- PO Wilson has been a member of the service for eight years and there are no substantiated CCRB allegations against him (Enc. F2).
- Sgt. Casella has been a member of the service for seven years and there are no substantiated CCRB allegations against him (Enc. F3 – F4).

### **Conclusion**

### **Identification of Subject Officers**

- PO Healy was identified by § 87(2)(b) via his last name. She provided an accurate physical description of PO Healy and a photo of him which she obtained from a wall plaque at the stationhouse. She identified PO Healy as the officer who pushed her to gain entry into her apartment. Therefore, a force allegation has been pled against PO Healy.

- Lt. McKenna was identified by § 87(2)(b) via his last name and accurately described by all parties in the complaint. § 87(2)(b) alleged that Lt. McKenna searched him and the couch on which he was sitting. Therefore, the search of § 87(2)(b) has been pled against Lt. McKenna. Given that Lt. McKenna was the highest ranking officer on scene during both entries, the entry allegations and initial search allegation have been pled against him.
- Since the latter search of the bedroom closet was conducted by PO Wilson, a search allegation has been pleaded to him.
- § 87(2)(b) alleged that the officer who was missing his shield was one of the officers who declined to provide his name and shield number to him during the first visit. Based on the police documents and officer statements, the investigation identified PO Wilson as the officer who lost his shield. Therefore, a refusal to provide name and shield allegation has been pled against PO Wilson.
- Sgt. Casella was identified as being at the incident location by PO Wilson. Sgt. Casella matched the description provided by § 87(2)(b) (a 5'6" tall, white man in his 30s who was dressed in plainclothes) of the officer who allegedly refused to provide his name and shield number to him. Additionally, § 87(2)(b) stated, and Sgt. Casella confirmed, that Sgt. Casella did not speak to the tenants of the apartment and remained toward the front of the apartment for the duration of the first visit. Therefore, a refusal to provide name and shield allegation has been pled against Sgt. Casella.

### **Allegations Not Pleaded**

§ 87(2)(b) alleged that the peephole of § 87(2)(b) apartment door was knocked out of his frame, causing property damage. Given that § 87(2)(b) is owned by § 87(2)(b) the property damage costs and reparations were not incurred by § 87(2)(b) and thus are not pled.

During her phone statement, § 87(2)(b) alleged that PO Healy stated, "I don't give a fuck," to her as he was handcuffing her. However, during her CCRB statement, § 87(2)(b) did not complain of discourteous language. Therefore, this allegation is not pled.

### **Investigative Findings and Recommendations**

**Allegation A: Force – PO Brett Healy used physical force against § 87(2)(b)**

**Allegation B: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation G: Abuse of Authority – On May 11, 2013, at 9:20 p.m., Lt. Paul McKenna authorized the entry into § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation H: Abuse of Authority – On May 11, 2013, at 9:20 p.m., PO James Wilson searched § 87(2)(b) § 87(2)(b) in Brooklyn.**

It is undisputed that officers entered § 87(2)(b) § 87(2)(b) in Brooklyn, at approximately 5:30 p.m. and 9:20 p.m., and the apartment was searched during the 9:20 p.m. visit. The motivation for the entries was to investigate and arrest the suspect who removed a shield from PO Wilson's uniform during an unrelated street encounter. It is further undisputed that the officers searched the area of the street encounter, in front of § 87(2)(b) prior to entering the building.

During the initial entry, all civilians alleged that at least six officers arrived and PO Healy gained entry by forcibly pushing § 87(2)(b) out of the way. § 87(2)(b) provided a photo of the officers standing in the hallway after the first entry, which was purportedly taken as evidence due to the civilians' aversion to the police intrusion. As a result of the initial encounter, § 87(2)(b) left the location in an ambulance and was subsequently diagnosed with a neck, cervical and shoulder strain, which she attributed to being pushed into a wall by PO Healy. During the latter entry, to which § 87(2)(b) was the only witness, he alleged that 10 to 20 officers were present, some of whom brushed past him and entered the apartment without his permission. Although § 87(2)(b) did not see the search of the



apartment, PO Wilson confirmed that he searched a walk-in closet in § 87(2)(b) bedroom and recovered marijuana and the police shield in plain view. All civilians interviewed denied providing the officers with consent to enter or search during both visits.

Lt. McKenna, PO Healy, and PO Wilson stated that they had consent to enter the apartment during both visits. PO Gonzalez, who was only present for the second entry, confirmed that the occupants gave consent for the officers to enter. Sgt. Casella was unable to provide salient points of the entry circumstances for either visit. PO Wilson was the only officer to document the consent for the second entry in his memo book, whereas the consent was not documented elsewhere for either visit. During the first entry, PO Wilson acknowledged that § 87(2)(b) demanded the officers leave and confirmed that the tenants requested the officers' names and shield numbers. PO Healy stated the officers only remained in the apartment for a couple of minutes since the tenants were very agitated. PO Wilson alleged that he attempted to initiate the stop of § 87(2)(b) outside of the building, which was not corroborated by any other officer. Lt. McKenna's accounts of the visits being congenial were also deemed unreliable, due to the acknowledgment by several officers of § 87(2)(b) agitation.

The courts have commonly held that an occupant's consent to enter or search a private dwelling is a viable alternative to the warrant requirement and probable cause is not a prerequisite to the request for consent, People v. Hodge, 44 N.Y.2d 553 (1978) (Enc. A1 – A3). In order for the consent to be a sufficient alternative to the warrant, the consent must be “a true act of will, an unequivocal product of an essentially free and unrestrained choice,” and void of official coercion, albeit it overt or subtle, People v. Gonzalez 39 N.Y.2d 122 (1976) (Enc. B1 – B7). When determining the voluntariness of the consent, the United States Supreme Court has determined that the totality of the circumstances pertaining to the interaction with the police is often relevant, United States v. Isiofia, 370 F. 3d 226 (2004) (Enc. C1 – C6). Furthermore, consent cannot be used to validate otherwise impermissible police searches when consent arises from improperly initiated police inquiry or intrusion. People v. Packer, 10 NY3d 915 (2008) (Enc. D1 – D2).

Absent consent, an officer may enter a private dwelling to effect an arrest when exigent circumstances exist. Six factors are considered when evaluating the degree of exigency involved: the gravity or violent nature of the crime alleged, whether the suspect is reasonably believed to be armed, probable cause the suspect committed the crime, a strong belief that the suspect is in the premises being entered, the likelihood the suspect will flee if not swiftly apprehended, and the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (Enc. E1 – E7).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation C: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. McKenna authorized the search of § 87(2)(b) § 87(2)(b) in Brooklyn.**

**Allegation D: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Lt. Paul McKenna searched § 87(2)(b)**

**Allegation E: Abuse of Authority – On May 11, 2013, at 5:30 p.m., PO James Wilson refused to provide his name and shield number to § 87(2)(b)**

**Allegation F: Abuse of Authority – On May 11, 2013, at 5:30 p.m., Sgt. Daniel Casella refused to provide his name and shield number to § 87(2)(b)**

During the initial entry, § 87(2)(b) alleged that Lt. McKenna searched under the couch cushions and PO Healy somehow took part in the search, though § 87(2)(b) was unable to articulate what actions he took in regard. § 87(2)(b) and § 87(2)(b) alleged that Lt. McKenna searched § 87(2)(b)'s pants pockets, but not any other area inside of the apartment. § 87(2)(b) did not witness an officer search § 87(2)(b). Collectively, the complainants alleged that PO Wilson and Sgt. Casella refused to provide them with their names and shield numbers during their first visit.

Lt. McKenna denied searching § 87(2)(b) and no other officers witnessed him do so. Sgt. Casella denied hearing a request for his information, and denied refusing to provide it. PO Wilson and PO Healy acknowledged that § 87(2)(b) requested their names and shield numbers, and PO Wilson contended that he provided it verbally more than once, as he did not have his name plate and shield in his possession at the time of the request. All officers interviewed denied hearing any officer refuse to provide his information. § 87(2)(b) provided a photo of the officers standing in the hallway, which § 87(2)(b) and § 87(2)(b) alleged was taken because the officers refused to provide their information.

§ 87(2)(b), § 87(2)(g)

Team: 2

Investigator: \_\_\_\_\_ Diana P. Murray \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
 Title/Signature                      Print                      Date